

State Supplier Relations

Introduction

The relationship between state procurement professionals and the suppliers who provide goods and services to state government is the foundation upon which effective, efficient, transparent and fair public procurement is built. The 2017 NASPO Exchange brought together over 565 state procurement professionals, suppliers, small business leaders and government stakeholders to learn, network and partner with one another.

This relationship is critical, but can be complicated. The statutes, regulations, rules and policies that govern state procurement processes are established to facilitate a *thorough and unbiased* process, one which ensures taxpayer money is used fairly and responsibly. Often what the states see as safeguards may be perceived as unnecessary obstacles for businesses seeking to provide essential products and services.

Exchange participants took advantage of the unique opportunity this event provides to air -- openly and honestly -- the frustrations of the state-supplier relationship. With state procurement professionals in one room and suppliers in another, small groups discussed the biggest issues, misconceptions and weaknesses of the current relationship dynamic. To ensure the frustrations didn't go unheard, a panel of suppliers and Chief Procurement officers addressed them, looking for creative ways to tackle the challenges inherent in the relationship between state government procurement professionals and the supplier community.

While these discussions were productive, the depth and breadth of feedback received from both groups simply could not be addressed sufficiently in one session. The summary below reflects the full range of responses and questions raised by both states and suppliers in their discussions. This information is shared for the purpose of creating mutual understanding of the needs, priorities and constraints of each group. By making this information available, the conversation can continue in an effort to shore up the foundation upon which more positive and productive state business relationships can be built.

Pet Peeves

Each state and supplier group started the conversation with the same overall question: "what is your number one pet peeve?" Many of the supplier responses to this question revolved around the communication -- or lack thereof -- surrounding the state procurement process. Suppliers expressed frustration about their inability to be a true partner due to lack of access to the information they need to support the state in achieving the best outcome. State procurement participants emphasized issues with suppliers circumventing or ignoring the procurement process instead of taking the time to fully understand it.

State Responses	Supplier Responses
<ul style="list-style-type: none"> - Circumventing the process - Not taking the time to understand the state or cooperative process - Abusing the protest process for personal gain - Not following the instructions/requirements - Selling off-contract - Entitlement mentality - Waiting until the last minute on everything (asking questions, submitting proposals) - "Umbrella of misinterpretations" - Cold calls where the caller has done NO research on the state - Promising the world and under-delivering 	<ul style="list-style-type: none"> - Lack of communication (lack of follow-up, not communicating needs/scope properly, not responding to Q&A period) - Timelines- short response times for vendors but state takes forever to make award - Inability to balance procurement process with industry best practices - Lack of contract understanding, enforcement and compliance throughout the state - Not flexible from state standard Terms & Conditions (Ts & Cs) - Lack of consistency from state to state

State Responses (cont.)	Supplier Responses (cont.)
<ul style="list-style-type: none"> - Putting more effort into writing the governor to complain about not getting an award than the actual proposal - Willful misrepresentation (of service/product, of relationship with agency, etc.) - Suppliers who don't read the bid documents - Short-sightedness - Telling agencies/poly-sub they can use a cooperative contract when the state does not have a Participating Addendum (PA) 	<ul style="list-style-type: none"> - Lack of objectivity (inconsistent responses to different vendors) - Price/cost-based decisions - Not providing timely/updated information online - Turnover - States perceiving vendors as simply a commodity or a transaction as opposed to a valuable source of information - State CPOs don't do a good enough job of promoting contracts to users in the state - Updating and adjusting PAs state to state for cooperative contracts - Cumbersome and time-consuming to find bids - Not getting requested bid notifications - Procurement often does not fully understand end user's needs or realities of the industry

Negotiations

The groups also discussed issues and challenges associated with the current negotiation landscape. Both states and suppliers indicated that Terms and Conditions create stumbling blocks with states not wanting to accept Ts and Cs offered by suppliers and vice versa. States expressed additional concern regarding contract negotiations related to information technology (IT), while the suppliers struggle primarily with what is perceived as limited flexibility on the part of the states.

State Responses	Supplier Responses
<ul style="list-style-type: none"> - Particularly difficult in IT - so pervasive and so challenging to settle on terms - Additional legal and insurance review adds complexity and can cause delays - The influx of data helps but can also be overwhelming, there is more quantitative information, but not a better qualitative understanding of that information - Large companies and/or sole source leave states with little to no leverage - Budgets are being continually constrained - Vendors are less likely to adhere to state terms - Ts & Cs continually getting more complex - Preferences must be taken into consideration 	<ul style="list-style-type: none"> - Process is too rigid, more flexibility is needed - Not enough communication - Turnover means less experience from state folks & less skill in negotiations - Cooperatives help at first, but then you have to negotiate PAs in each state - Best when states are solutions-focused, not equipment-based - Data hurts and helps, sometimes too much to respond to - Negotiations are too one-sided to the benefit of the states - States do not understand the demands and complexity of the market enough to negotiate fairly

What to Stop Doing

When asked what they think suppliers should *stop* doing, states offered up many responses directly related to their primary frustration: suppliers circumventing the process and undermining the authority of the central procurement office. Supplier responses reflect the desire for more flexibility in the system and more efficient collecting and sharing of information.

State Responses	Supplier Responses
<ul style="list-style-type: none"> - Going over the head of the CPO (to governor, legislature, media or directly to poly-subs when central procurement needs to be involved) - Contracting outside the process, selling or performing services without a contract in the state - Bidding on initial info and using negotiations to change the offer - Misrepresenting (product strengths/weaknesses, feedback received from agencies, feedback received from central procurement) - Going to lobbyists instead of procurement/undermining the process - Submitting questions after Q&A period has concluded - Changing company personnel working on the bid/contract as a tactic to put pressure on the state - “Stop looking at us like a normal customer” - Stop making assumptions regarding the procurement process 	<ul style="list-style-type: none"> - Putting out RFPs/RFBs that are not well researched - Requiring duplicate work (i.e. RFPs for EVERY purchase under existing contracts, ignoring existing contracts or cooperatives available) - Putting such tight restrictions on response times - Limiting communications and information between vendors and states - Over-valuing the incumbent - Saying “no” without fully listening to/understanding the vendor perspective - Using contract terms too heavily favoring the state (i.e. extreme penalties, unlimited liability, unreasonable indemnity, cancellation for convenience) - Making changes to scope/specs late in the negotiation - Making claims to the vendor’s intellectual property - Assuming they know more about the industry/products than the suppliers - Changing requests/specs after the contract is signed - Heaping requirements and certification qualifications on vendors - Treating all industries the same - Not communicating the contract opportunity to end users

Key Questions

Some of the liveliest discussion revolved around the questions often asked, but rarely answered in the state procurement process. While many of the questions identified were specific to aspects of the procurement process, all tie into the mutual desire for more information. State participants indicated they do not get the “whole story” from suppliers during the solicitation process, leading to unsatisfactory results once the contract is in place. Supplier responses indicate a need for more, and better, information at the start of the solicitation process regarding the expectations, priorities, timelines and other aspects that help them develop quality proposals or bids. Some questions were pointed, reflecting the frustration often present in the process. Still others seem to be posed very broadly, focusing on the overall betterment of the process.

State Responses	Supplier Responses
<ul style="list-style-type: none"> - Who is the right person to be on negotiation teams? Who makes the decisions? - Why don’t you provide alternatives instead of just saying “we can’t do that”? - Can you share information on the market without it being proprietary? - What other states have you seen doing this contract better? - Is there anything I haven’t asked you that I should have/know in this negotiation? - What are the weaknesses of the product? - What are the difficulties and expenses on your end (for IT implementation)? 	<ul style="list-style-type: none"> - Why doesn’t your state sign the ValuePoint PA? - Why don’t you communicate during open question processes? - Do you really even want “Partnerships”? - How can we work together to share data? - How do you work with end-users? - Do you already have a preferred provider in mind? - Why don’t you use data to drive your decisions? - What is the decision-making timeline and what are the most critical factors? - Are you sharing my info with competition? How do we protect that info?

State Responses (cont.)	Supplier Responses (cont.)
<ul style="list-style-type: none"> - What are the “hidden costs” in your price? - Why don’t you take the time to understand our process? - Is this REALLY the best discount you can give me? - Why are responses (regarding price) different state to state? - What “sells”? (i.e. what products and/or services actually meet a demonstrated market need?) - Are you a manufacturer or a reseller? - Why don’t your sales reports match our spend data? - What state Ts & Cs are a problem for you? - Why don’t you provide sales reports when that information is required? 	<ul style="list-style-type: none"> - When is the RFP going to be released for a contract that is ready to expire? - How do you define “best value” and how much emphasis is still placed on price? - How long is it going to take to complete the requisition? - What is a “need” vs. a “want”? - What information needs to be in an SLA or software license? - What are the bid criteria up front? - What is the goal of this RFQ/RFP/RFB/requisition? - Why would you replace the incumbent? - Why isn’t the contact in the solicitation an SME? Why won’t they respond? - What will post-award deadlines look like? - Why can’t ValuePoint participant states standardize reporting? - What is the budget for this project? - How will questions from the Q&A period be answered? - When are states planning to modernize (processes, Ts & Cs, etc)? - Why don’t you do more to drive/promote statewide contracts? - Why do you continue to use outdated processes that don’t help you achieve your goals?

Feedback

One of the critical components of the relationship is getting quality, timely feedback. Supplier responses to this portion of discussion indicate that more can be done to integrate feedback and input from the supplier community when compiling solicitation information or looking at the overall procurement process. States highlighted the need for suppliers to take advantage of the existing opportunities for engagement, whether they be Q&A periods before solicitations are issued or after award through debriefs. Both groups expressed frustration with what was perceived as a lack of follow-through or willingness to take advantage of the information that is currently available.

State Responses	Supplier Responses
<ul style="list-style-type: none"> - Good vendors take advantage of training - Some participate in bid-conference - Need more to take advantage of debriefs - See most through protests or FOIA requests as opposed to leveraging other communication channels (debriefs, Q&A periods, etc.) - More vendors should be taking advantage of the information available online from states - Some vendors ask questions during Q&A, but many don’t - Some vendors try to ask questions in the proposal/bid response, which isn’t helpful...it’s too late 	<ul style="list-style-type: none"> - Some states use “Request for Comment” but not all...why? - Some states use RFIs - Most are not asking for feedback and they are missing out on expertise and info vendors can provide to improve specs, requirements and outcomes - Vendors want to provide feedback to improve the process -- tThe majority of suppliers truly want to help” - It would be helpful to get info from the states post bid-opening, but prior to award to address why a bid is “non-responsive”

State Responses (cont.)	Supplier Responses (cont.)
<ul style="list-style-type: none"> - Questions often go to the governor or other political leaders instead of central procurement 	<ul style="list-style-type: none"> - Only a few states ask why regular vendors did not bid on a particular solicitation - More pre and post meetings are desired, to get better info going into each solicitation (for states) and info on what could be done better in responses (for suppliers)

Information to Enhance the Partnership

Participants also had considerable feedback regarding what additional information would be helpful in making them more effective business partners. State responses reflect the desire for more direct, thorough information regarding the products and services in question so that they can help support the best decision-making for end users. Suppliers countered by highlighting the additional details that could be included in each solicitation to ensure they can create robust proposals.

“If we do not know our shortcomings...how can we improve?”

State Responses	Supplier Responses
<ul style="list-style-type: none"> - What training do suppliers think they need to be successful? - More reporting on spend and market information about the products - What assumptions are built into the cost and how do you get there? - Industry trends and future opportunities - Honesty about limitations, capacity and weaknesses - Who is the final decision-maker? That person should be participating in negotiations - Reporting - many vendors don't supply requested reports regarding performance under the contract - Detailed responses to the established RFP/RFB- not generic proposals - What are the business challenges and obstacles? 	<ul style="list-style-type: none"> - What is coming up, what solicitations are on the horizon? - Reports and info on off-contract spend - Forecasts on true spend, volume, opportunity, previous spend on similar contracts - Why was my bid not successful? - What is the timeline (all up-front) - Where are you getting the info used to create the RFP/RFB/solicitation? Who helped you create it? - Previous/similar bid responses - Share any and all state codes/regulations that apply so vendors can be sure to comply - Quarterly business reviews/performance reviews with end users - Debriefs on unsuccessful bids - More information on preference requirements - The “rules of engagement” for state procurement - Budget ranges - are we looking for a Chevy or a Cadillac? - What are the goals and strategic vision? - Vendor training and education - The definition of “best value” - How states consider total cost of ownership

What Should They Know?

As well as discussing what additional information they need to be successful, states and suppliers were asked to share their inside information on what they want to make sure their counterparts know and understand about the process. Key themes emerged consistent from both groups, including the desire to be good partners while following the “rules of engagement” and that the process is very complex and demanding for all parties.

State Responses	Supplier Responses
<ul style="list-style-type: none"> - The ability to request information, examples and information from other bidders to be better informed - We don't have hidden agendas - we're just following the rules - Always ask for a debrief when you don't win a bid! - It takes time to go through all the required channels on the state side - All states are not the same - and never will be! - Ask questions in advance - "Once it's on the street, I CAN'T HELP YOU!" - Contracts aren't "given," central procurement is just responsible for following the process - "Must means must" - Evaluations are often done by independent committees (depending on the state) - know what kind of state you're working with! - Being conscientious of the procurement process goes a long way! - Volumes are only -- and can only be -- estimates 	<ul style="list-style-type: none"> - Vendors can help you understand the industry - they want to help - Suppliers can help support data collection - It takes time to put together a quality response - there are many touch points, approvals and layers - Price is not the be-all, end-all - Some existing procurement processes increase cost because they are so cumbersome - How waiting endlessly for responses impacts business financially - Be open to revising the solicitation if/when questions are raised during Q&A periods - Not all businesses you deal with are profitable/high margin - It can be REALLY hard to find the right contact person in a state - "We can solve problems they don't know they have" - Why we chose not to respond to your RFQ - Poor solicitation documents make a solid response challenging - Price updates are necessary

What Makes a Good Partner?

Supplier groups were asked to identify which states were easy to work with in the procurement process and which ones were more challenging. More importantly, they identified the characteristics that made some states more effective and what *all* states can learn from these characteristics to improve the state-supplier relationship:

- Know the value of partnerships and LISTEN to suppliers - it is not an adversarial relationship
- Have open and transparent processes
- Offer open communication channels and provide timely responses
- Use all tools available to get good-quality information before soliciting, i.e. RFIs
- Be active in cooperative procurement
- Maintain consistent, solid leadership (less turnover)
- Embrace modernization, moving away from old systems, laws and processes
- When possible, be flexible and adaptable to suggestions on improving Ts & Cs
- Establish effective contract management programs

What to Do (and What Not to Do)

State groups identified the sales tactics and techniques that work and support effective business relationships, as well as the ones that don't. While things like politicizing the process, adding the procurement office to general mailing lists and "selling" to the CPO instead of end-users should be avoided, many more positive approaches were outlined:

- Market existing contracts directly to end users
- Provide samples and demos
- Participate in state vendor shows and other chances to meet with users
- Be proactive in marketing and promoting contracts (once awarded)
- Get to know the "right" people (i.e. the critical users and customers for each contract)
- Leverage all public information to understand the market/needs
- Partner to meet the customized needs of individual states
- Connect with the customers/users to understand their needs and build relationships on that level (once awarded)
- Ask questions and LISTEN to the responses in developing marketing plans

Keys to Success

Both groups were asked to provide a few “Keys to Success” in ensuring the relationship can be a positive one. Keeping these in mind is critical for all state procurement professionals and suppliers who want to ensure the procurement process supports its intended goals of fairness, responsibility and transparency.

State Responses	Supplier Responses
<ul style="list-style-type: none">- Only FOIA what you need- Use the Q&A period to your advantage - don't wait until you're unsuccessful and have to protest- Always answer the questions in the RFP - “Read the solicitation three times”- Read the policies and get to know the states you're working with- Once awarded, YOU are responsible for marketing your contract- Meet established deadlines- Do the research on previous contracts and the user agency- Take advantage of debriefs and learn from them- Put yourself in the customer's shoes- Additional info in a proposal is nice, but only if you've fully addressed all the questions/requirements in the RFP- Get to know the process BEFORE you're in the final stages of completing/submitting a bid- Don't assume there is a best and final offer (BAFO) process- Stay in touch post-award- Use plain language in proposals/bids- Make your responses clear & concise- Take advantage of provided training- Pay attention to evaluation criteria, weights and other cues to what is important in a proposal	<ul style="list-style-type: none">- Understand the industry you are soliciting- Collaboration is key (both among procurement and users and procurement and vendors)- Be transparent - the more information and history the better- Educating end users on available contracts is critical- Treat your vendors like a partner- Be flexible when possible- Allow the market/environment to drive contract changes, price increases, etc.- Price is only a small component of total cost of ownership, savings opportunities- Accessibility- Require and monitor compliance from eligible entities- Balance value and price- Set realistic timeframes for the process- Leverage cooperative procurement- Have more multiple award schedules - lead to competition over the life of the contract

Conclusion

Navigating the complexities of state procurement processes is a significant challenge for suppliers who do not always feel like they have access to the information needed to be successful. Likewise, state procurement professionals may be driven by the desire to be effective partners for both suppliers and their user customers, but know that they are limited in what they can do according to the parameters established by the state procurement process.

While there are, certainly, aspects of the process that can and should be improved to meet the evolving needs of state government customers, much can be done to better understand the existing system and work within it to be successful. The relationship between state procurement and the supplier community is, and will continue to be, the keystone to the overall success of state government initiatives. The NASPO Exchange will continue to provide a platform for enhancing this understanding and providing both suppliers and state procurement professionals the tools and resources needed to be successful.